

Issued by the  
UNITED STATES DISTRICT COURT

**FILED**  
DISTRICT COURT OF GUAM

DISTRICT OF GUAM

APR 03 2008 *mba*

UNITED STATES OF AMERICA

SUBPOENA

**JEANNE G. QUINATA**  
Clerk of Court

V.

DANIEL J.C. ROSARIO

Case Number: CR 98-00075

TO: JoAnn Garcia  
P.O. Box XXXXX GMF  
Barrigada, Guam 96921

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
U.S. Attorney's Office, Sirena Plaza, Suite 500 108 Hernan Cortez Avenue, Hagatna, Guam 96910	May 12, 2008 at 11:00 a.m.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

SEE ATTACHED NOTICE OF INTENT TO TAKE ORAL DEPOSITION WITH SUBPOENA DUCES TECUM

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Jessica Cruz, Attorney for Plaintiff</i>	3/3/08
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
JESSICA F. CRUZ, Assistant U.S. Attorney TEL: 671-472-7332	
MIKEL W. SCHWAB, Assistant U.S. Attorney	
U.S. Attorney's Office, Sirena Plaza, Ste. 500, 108 Hernan Cortez Ave., Hagatna, GU 96910	

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

If action is pending in district other than district of issuance, state district under case number.

ORIGINAL

7:30am

PROOF OF SERVICE

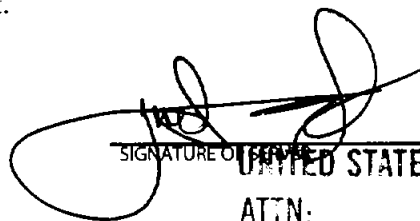
DATE PLACE	
SERVED	04/03/08 - Residential
SERVED ON (PRINT NAME)	MANNER OF SERVICE
JoAnn Garcia	Personally
SERVED BY (PRINT NAME)	TITLE
Tina G. Christomo	Deputy US Marshals

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

04/03/08  
DATE

  
SIGNATURE OF SERVER

UNITED STATES MARSHALS SERVICE

ATTN:

ADDRESS OF SERVER

520 W. SOLEDAD AVE, SUITE 344  
HAGATNA, GUAM 96910

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fees.

(2)(A) A person commanded to produce and permit inspections and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order

to attend trial be commanded to travel any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

1 **ROSARIO\_D.3dep**

2 **LEONARDO M. RAPADAS**

United States Attorney

3 **JESSICA F. CRUZ**

Assistant U.S. Attorney

4 **MIKEL W. SCHWAB**

Assistant U.S. Attorney

5 Sirena Plaza, Suite 500

108 Hernan Cortez Avenue

6 Hagåtña, Guam 96910

TEL: (671) 472-7332

7 FAX: (671) 472-7215

8  
9 **IN THE UNITED STATES DISTRICT COURT**

10 **FOR THE DISTRICT OF GUAM**

11 **UNITED STATES OF AMERICA,**

12 **Plaintiff,**

13 **vs.**

14 **DANIEL J.C. ROSARIO,**

15 **Defendant.**

**CRIMINAL CASE NO. 98-00075**

**NOTICE OF INTENTION TO TAKE  
THIRD PARTY ORAL DEPOSITION  
WITH SUBPOENA DUCES TECUM**

16 **TO: JoAnn Garcia**  
17 **P.O. Box XXXXX GMF**  
18 **Barrigada, Guam 96921**

19 Please take notice that the United States of America, the plaintiff and judgment  
20 creditor herein, will on May 12, 2008 take third party oral deposition of JoAnn Garcia, in the  
21 above styled and number case pursuant to Rules 30 and 69(a) of the Federal Rules of Civil  
22 Procedure and in aid of collecting its judgment.

23 Said third party deposition will take place at the offices of the United States Attorney, 5<sup>th</sup>  
24 Floor, Sirena Plaza, 108 Hernan Cortez Avenue, Hagåtña, Guam at 11:00 a.m. on May 12, 2008  
25 and will continue until completed. Said deposition will be taken before a Certified Court  
26 Reporter and will be taken upon oral examination for the purpose of discovery or as evidence or  
27 both pursuant to the Federal Rules of Civil Procedure.

28 //

1 Notice is hereby further given that at this deposition, JoAnn Garcia, is hereby required to  
2 produce all documents described in the accompanying Schedule A.

3 DATED, this 3<sup>rd</sup> day of March, 2008.

4  
5 LEONARDO M. RAPADAS  
6 United States Attorney  
7 Districts of Guam and the NMI

8 By: /s/ Jessica F. Cruz  
9 JESSICA F. CRUZ  
10 Assistant U.S. Attorney  
11 Jessica.F.Cruz@usdoj.gov  
12 MIKEL W. SCHWAB  
13 Assistant U.S. Attorney  
14 mikel.schwab@usdoj.gov  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SCHEDULE A TO NOTICE OF INTENT TO TAKE  
THIRD PARTY ORAL DEPOSITION WITH SUBPOENA DUCES TECUM

1. Current bank statements for the past twelve (12) months from all domestic and foreign banks or other financial institutions where any sole proprietorship, partnership or corporation in which you are joint with Daniel J.C. Rosario owns any interest.
2. Current bank statements for the past twelve (12) months from all domestic and foreign banks or other financial institutions where you, joint with Daniel J.C. Rosario, have an account of any kind, including but not limited too, time certificate of deposits.
3. All trust agreements in which you, joint with Daniel J.C. Rosario, are named settlor, trustee, or beneficiary.
4. All deeds, leases, contracts, and other documents evidencing encumbrances of any kind on real property owned jointly with Daniel J.C. Rosario.
5. All deeds of trusts, mortgages, or other documents evidencing encumbrances of any kind on real property owned jointly with Daniel J.C. Rosario in which you, joint with Daniel J.C. Rosario, have any ownership interest.
6. A listing of all stock, bonds, or other securities of any class you own jointly with Daniel J.C. Rosario, including options to purchase any securities and the actual instruments if in your possession.
7. Current brokerage statements for the past twelve (12) months from any stock brokerage firm or similar entity where you, joint with Daniel J.C. Rosario, have an account of any kind.
8. Title to any motor vehicle jointly owned with Daniel J.C. Rosario.
9. All life insurance policies held by you in which Daniel J.C. Rosario is either the insured or the beneficiary.
10. All promissory notes held by you, and all other documents evidencing any money owed to you, jointly with Daniel J.C. Rosario, either now or in the future.
11. All deeds, titles, bills of sale, or other documents prepared in connection with any transfer of real or personal property made with you to Daniel J.C. Rosario or jointly with Daniel J.C. Rosario, either by gift, sale, or otherwise.
12. All documents evidencing any interest you have with Daniel J.C. Rosario in any pension plan, retirement fund, or profit sharing plan.

U.S. Department of Justice  
United States Marshals Service

**PROCESS RECEIPT AND RETURN**  
See "Instructions for Service of Process by U.S. Marshal"

PLAINTIFF <b>UNITED STATES OF AMERICA</b>	COURT CASE NUMBER <b>CR 98-00075</b>
DEFENDANT <b>DANIEL J.C. ROSARIO</b>	TYPE OF PROCESS <b>SERVICE OF DEPO SUBPOENA</b>

**SERVE AT** { NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN  
**JoAnn Garcia**  
 ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)  
**Mangilao, Guam**

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW  United States Attorney's Office, Financial Litigation Unit Sirena Plaza, Suite 500 108 Hernan Cortez Avenue Hagatna, Guam 96910	Number of process to be served with this Form 285	1
	Number of parties to be served in this case	1
	Check for service on U.S.A.	0

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold Fold

See attached for information purpose only. Not to be filed with the Court.

Signature of Attorney other Originator requesting service on behalf of: <i>Jessica Cruz</i> <b>JESSICA F. CRUZ, Assistant U.S. Attorney</b>	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER <b>671-472-7332</b>	DATE <b>3/3/08</b>
---	---	---	-----------------------

**SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE**

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process <b>1</b>	District of Origin No. <b>93</b>	District to Serve No. <b>93</b>	Signature of Authorized USMS Deputy or Clerk <i>[Signature]</i>	Date <b>3/4/2008</b>
---	---------------------------	-------------------------------------	------------------------------------	--	-------------------------

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode
Address (complete only different than shown above) <b>#5402 Tun Kiko Feja Dr. Pagat Mangilao, Guam</b>	Date <b>04/03/08</b> Time <b>0753</b> <input checked="" type="checkbox"/> am <input type="checkbox"/> pm Signature of U.S. Marshal or Deputy <i>[Signature]</i> <b>#3860</b>

Service Fee	Total Mileage Charges including endeavors	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*) <b>\$0.00</b>
-------------	---	----------------	---------------	------------------	--

REMARKS:

PRINT 5 COPIES:

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT\*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

Form USM-285  
Rev. 12/15/80  
Automated 01/00

## **INSTRUCTIONS FOR SERVICE OF PROCESS BY U.S. MARSHAL**

Please type or print legibly, insuring readability of all copies. **DO NOT DETACH ANY COPIES.** Submit one complete set of this form (USM-285) and one copy of each writ for each individual, company, corporation, etc., to be served or property to be seized or condemned. The applicable fees for such service(s) (T28, USC Sec. 1921 establishes the fees for service of process by the U.S. Marshal) may be required prior to said service.

For service of any process upon an officer or agent of the United States Government, submit a copy of the writ and a set of Form USM-285 for each officer or agent upon whom service is desired. Submit three (3) additional copies of the writs for service upon the Government of the United States. The U.S. Marshal will serve one (1) upon the U.S. Attorney and will forward two (2) to the Attorney General of the United States. (When the applicable box is checked, completion of the final signature block by the U.S. Marshal or his Deputy always certifies service on the U.S. Attorney and the Attorney General, regardless of whether other defendants on the writ were served.) Failure to provide any of the copies will delay service of the writ.

Complete all entries above the double line. Mark all applicable check boxes and use the "Special Instructions" to advise of any information that will assist the U.S. Marshal in expediting service.

If more than one writ and USM-285 is submitted on a single case, the U.S. Marshal will receipt for all of them on the first USM-285. You will receive for your records the last (No. 5) "Acknowledgment of Receipt" copy for all the USM-285 forms you submit. When the writ is served, you will receive the No. 3 Notice of Service copy. This copy will be identical to the return to the Clerk of the Court.

Upon completion of all services (if the Marshals fees were not requested or tendered in advance or if additional fees are indicated), you will receive a "Billing Statement" (copy 4 of USM-285) from the United States Marshal. (NOTE: Copy 4 should be returned, by you, to the U.S. Marshal, together with your payment of the amount owed.

Additional supplies of the USM-285 may be obtained from the Clerk of the U.S. District Court or U.S. Marshal, without cost.